

PART 2 INDEPENDENT GROUPS

Chapter 19: The Democratic Party and Other Independent Groups

During the 1996 federal election cycle, there were allegations that ostensibly independent, tax-exempt groups engaged in improper or illegal partisan political activity. The alleged activity ranged from broadcasting issue ads that in reality were candidate ads, to closely coordinating with one of the national political parties. Unfortunately, the vast majority of allegations against independent groups remain unexplored by the Committee because subpoenas issued to most of these groups were not complied with or enforced. Despite these and other limitations, allegations regarding groups traditionally associated with the Republican Party are addressed in Chapters 10-15. Allegations regarding groups traditionally associated with the Democratic Party, and that were explored in public hearings, are addressed in Chapters 17-18. This chapter addresses, to the extent possible based on evidence submitted to the Committee, allegations regarding certain other groups traditionally associated with the Democratic Party.

FINDINGS

(1) During the 1996 election cycle, several independent groups spent millions of dollars to promote Democratic issues and possibly Democratic candidates through “issue advocacy,” voter education and voter registration.

(2) The Committee, however, uncovered no evidence that the Democratic Party played a central role in contributing to, or coordinating with, these groups. The Democratic National Committee contributed only \$185,000 to such groups in 1996, compared to over \$5 million the Republican National Committee contributed to conservative groups in the last half of 1996 alone.

OVERVIEW

In 1997, the Annenberg Public Policy Center, a nonpartisan organization, published a report analyzing issue advocacy ads broadcast during the 1996 federal elections. The report found that political candidates and their committees spent \$400 million to broadcast candidate ads and that parties and other outside groups discussed in the study spent between \$135 and \$150 million to broadcast “issue ads.” The report noted that the independent and other outside groups claimed that because their ads focused on advocating “issues,” not candidates, there was no obligation to report the ad campaigns to the Federal Election Commission as independent expenditures.¹

The Annenberg report made the following comment about the role of these issue ads in the 1996 elections:

This report catalogues one of the most intriguing and thorny new practices to come onto the political scene in many years -- the heavy uses of so-called “issue advocacy”

advertising by political parties, labor unions, trade associations and business, ideological and single-issue groups during the last campaign . . . This is unprecedented and represents an important change in the culture of campaigns.²

The Minority agrees that the increased use of issue advocacy has changed the culture of campaign financing in the 1990s, as has the increased coordination and financial support between certain independent groups and the national political parties. As a result, with a few exceptions, the Minority actively supported a series of Committee subpoenas issued to 30 independent groups from April to July of 1997.³ The subpoenaed entities ranged from conservative groups such as Americans for Tax Reform, the Christian Coalition, and Triad Management to pro-Democratic groups such as Vote Now '96, the Teamsters and the AFL-CIO. The subpoenas requested that these entities provide information about their issue ads and other voter education activities, as well as their coordination with the national parties.

The Minority hoped to conduct a thorough investigation of these groups in order to understand their effect on the campaign finance system and to determine whether they avoided or violated current election and tax laws. Such an investigation would have assisted in providing guidelines for meaningful enforcement of campaign finance laws and regulations and could have led to proposals for new legislation. Unfortunately, a thorough investigation of these activities eluded the Committee because subpoenas to the groups were, in large part, not complied with or enforced. The breakdown in compliance is explained in detail in Chapter 41 of this Minority Report.

In addition, with very limited exceptions noted earlier in this part of the Minority Report, the Committee did not hold public hearings focused on the activities of these groups. With these limitations in mind, this chapter contains a summary of the information obtained regarding the activities of certain independent groups associated with the Democratic Party.

THE DNC AND INDEPENDENT GROUPS

In 1996, the Democratic National Committee ("DNC") contributed a total of \$184,500 to several independent, tax-exempt groups. The two largest recipients were the National Coalition of Black Voter Participation, which received \$117,000, and the African American Institute, which received \$20,000.⁴ Neither of these organizations was subpoenaed by the Committee and there were no allegations that they conducted improper partisan electioneering on behalf of the Democratic Party.

The Committee did examine other potential contacts the DNC may have had with independent groups. The Committee subpoenaed the DNC and required it to produce, among other things, all documents regarding contact with a variety of named independent groups. Despite a large production of documents, the Committee obtained no evidence that the DNC was involved in establishing, structuring, or controlling any independent group.

Therefore, unlike the evidence demonstrating that the RNC contributed nearly \$ 6 million

dollars to independent groups and documents showing that RNC officials founded, structured or financed allegedly independent groups, the Committee obtained no evidence that the DNC engaged in similar activities. Unfortunately, this disparity between the RNC and DNC relationships with independent groups was not explored by the Committee.

The Committee did explore, however, allegations that White House and DNC officials directed contributions to certain independent groups. These allegations were the subject of public hearings where the Committee received testimony about Warren Medoff's contact with Harold Ickes, and DNC officials' contact with Ron Carey's campaign for reelection as president of the Teamsters. There were also hearings where testimony was received on Vote Now '96. Additional allegations against independent groups traditionally associated with the Democratic Party are summarized below.

ACTIVITIES OF INDEPENDENT GROUPS

The AFL-CIO

Federal election law permits unions to establish political action committees ("PACs") and the PACs, in turn, are permitted to make contributions to candidates. Direct contributions by a union to a candidate or to the federal account of a political party, however, are prohibited in federal elections. This prohibition not only includes cash contributions, it prohibits unions from paying for "express advocacy" expenditures out of their general treasuries. Labor organizations, including the AFL-CIO, aired television advertisements during the 1996 elections, but maintain that they properly avoided this prohibition by airing issue ads that did not expressly advocate the election or defeat of specific candidates.⁵ This legal distinction is discussed at length in Chapter 9 of this Minority Report.

The allegations against the AFL-CIO were (1) that by spending a substantial amount of money on issue ads and other advocacy activities in 1996, the organization had an impermissible effect on the 1996 federal elections, and (2) that the organization improperly proposed that it coordinate its issue ads with the Democratic Party.

With the caveat that the Committee did not conduct a public investigation of the issue advocacy conducted by any independent group, the evidence the Committee received does not support the allegation that the AFL-CIO's expenditures ran afoul of legal prohibitions. Of the \$35 million reportedly spent by the AFL-CIO during the last election cycle, an estimated \$25 million went into paid media, and the remainder went into direct mail and related organizing activities. The AFL-CIO sent coordinators to 102 congressional districts, where they engaged in a combination of paid advertising, mail and get-out-the-vote activities. The AFL-CIO also ran issue-advocacy ads in a total of 44 of congressional districts where, ultimately, the GOP won 29 races and the Democrats won 15.⁶

The Committee investigated the second allegation -- that the AFL-CIO impermissibly

proposed coordinating its issue ads with the Democratic Party. That allegation arose during the deposition of Richard Morris, an outside political consultant who advised the president during the 1996 campaign. Morris claimed that during a meeting held at the White House sometime in 1996, an AFL-CIO media consultant proposed that they coordinate union advertising with the Clinton campaign.⁷ Following Morris' deposition, the Committee deposed several officials who Morris claimed were present during that meeting. Those officials, who included former White House Chief of Staff Leon Panetta and former White House Communications Director George Stephanopoulos, testified that they did not recall any discussion of coordination and that coordination did not occur.⁸ The Committee received no further evidence to support Morris' assertion that coordination was proposed, and Morris himself testified that no coordination actually occurred.⁹

It is apparent that the Committee's investigation of the AFL-CIO's activities, like the investigations of other independent groups, was not complete. The AFL-CIO was subpoenaed by the Committee in late May 1997, but objected to the subpoena in August after unsuccessfully attempting to narrow its scope. Several other independent groups also objected to subpoenas they received from the Committee, some stating that they agreed with the AFL-CIO's objections. These objections to the subpoena and the Committee's responses are detailed in Chapter 41 of this Minority Report.

Vote Now '96

The Committee discovered evidence that DNC officials and at least one White House official directed contributions to Vote Now '96, an independent tax-exempt organization that does not broadcast issue ads, but attempts to register new voters in minority areas. DNC officials allegedly directed contributions to Vote Now '96, including contributions from people who could not legally give to the DNC. The DNC apparently considered Vote Now '96 an organization worthy of contributions because most new minority voters tend to identify with the Democratic Party. Among the allegations involving Vote Now '96 were:

- O DNC Finance Chairman Marvin Rosen steered a \$100,000 contribution from Judith Vasquez, a donor who was not legally permitted to give to the DNC or the Ron Carey campaign to Vote Now '96.¹⁰
- O DNC donor Yah Lin ("Charlie Trie") contributed \$3,000 to Vote Now '96, and as with several of his political contributions, the source of the funds could not be determined.
- O After a fundraising event at the Hay-Adams Hotel in Washington, D.C., DNC fundraiser John Huang indicated to DNC General Counsel Joseph Sandler that two of the contributions that had been made to the DNC were from individuals whose green card status had been approved but were not yet issued. The DNC returned the contributions and the same individuals later contributed to Vote Now '96.¹¹

- O In response to a request from businessman Warren Meddoff for recommendations on tax-deductible organizations, White House deputy chief of staff Harold Ickes suggested that Meddoff's associate contribute to Vote Now '96. This allegation is discussed in detail in Chapter 17.
- O In the fall of 1996, Vance Opperman, a major contributor to the Democratic Party, offered to contribute \$100,000 to the DNC. Mark Thoman, a DNC fundraiser was instructed by Richard Sullivan that even though he could legally contribute to the DNC, he should direct Opperman's contribution to Vote Now '96.¹²

Based on these allegations, it appears that DNC officials and one White House official steered contributions they could not -- or did not want to -- accept to Vote Now '96. The practice of steering contributions to an independent group leads to obvious questions regarding the reason for such activities, such as, was an attempt being made to conceal the true identity of the contributor or to evade the law. The legality of this activity, however, depends upon whether the contributions to Vote Now '96 served as nothing more than contributions to the DNC and were made to circumvent election law restrictions. In order to become de facto party contributions, the DNC must have in some way controlled or coordinated the contribution and the way Vote Now '96 expended its funds. Unlike the evidence establishing that the RNC controlled and coordinated with the National Policy Forum, Americans for Tax Reform, Coalition for Children's Future and other groups, there was no evidence presented to the Committee that the DNC coordinated or controlled the activities of Vote Now '96, which fully complied with this Committee's subpoena by producing documents and witnesses to the Committee.

Citizen Action

Citizen Action is a 501(c)(4) tax-exempt consumer advocacy group which spent \$7 million on televised ads, direct mail, and telephone operations during the 1996 election cycle.¹³ It was targeted for a subpoena primarily due to its alleged involvement in a contribution "swap" scheme devised by consultants to Ron Carey's campaign to be reelected president of the International Brotherhood of Teamsters. However, beyond issuing a document subpoena, the Committee did not investigate the group's activities. A criminal information filed against Ron Carey's campaign consultants in the Southern District of New York details the allegations against Citizen Action. There is no evidence of any connection between the activities of Citizen Action and the activities of the DNC and Clinton campaign. These matter are further discussed in Chapter 17.

National Council of Senior Citizens

Another entity apparently involved in the allegations concerning Ron Carey's campaign consultants was the National Council of Senior Citizens ("NCSC"). Federal prosecutors alleged in a criminal information against these consultants that the consultants arranged for the Teamsters to contribute \$85,000 to the NCSC, which then sent the same amount to the November Group. Part of the NCSC money paid to the November Group was allegedly funneled by Davis into the Carey campaign in order to finance Carey's direct mail campaign. Beyond issuing a subpoena, the

Committee did not explore these serious allegations.¹⁴

CONCLUSION

As the 1997 Annenberg study points out, both pro-Republican and pro-Democratic groups conducted costly and partisan issue advocacy campaigns during the 1996 federal elections. Although the Minority believes that such issue advocacy campaigns as well as independent group coordination with both national parties merit further investigation, the Committee did not receive evidence that the groups summarized above engaged in any improper issue advocacy or illegal coordination with the Democratic Party. For a list of independent groups subpoenaed by the Committee, see Chapters 40 and 41 of this Minority Report.

1. The Annenberg Center for Public Policy, 9/16/97, "Issue Advocacy During the 1996 Campaign: A Catalogue."
2. Annenberg, p. 3.
3. The Minority believes that the Majority targeted certain independent groups solely on the basis that they were pro-Democratic.
4. According to FEC records, in 1996, the DNC gave \$117,500 to the National Coalition of Black Voter Participation; \$20,000 to the African American Institute; \$10,000 to the Stonewall Gay and Lesbian Club; \$10,000 to the Congressional Black Caucus; and \$4,000 to the Hispanic Caucus.
5. Annenberg, p. 5.
6. Annenberg, p. 10.
7. Richard Morris deposition, 8/20/97, p. 217.
8. Leon Panetta deposition, 8/29/97, p. 190; and George Stephanopoulos deposition, 9/6/97, p. 98.
9. Richard Morris deposition, 8/20/97, p. 217.
10. Mark Thomann deposition, 9/23/97, pp. 24 - 29.
11. New York Times, 9/29/97.
12. Mark Thomann deposition, 9/23/97, p. 63.
13. Annenberg, p. 18.
14. See United States v. Davis, U.S.D.C, S.D.N.Y.